

RULE 3.1

COMMENCEMENT OF ACTION

(a) Payment of Fees

The filing fee shall be paid to the Clerk of Court upon filing the complaint. A party who desires to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 shall file with the complaint a motion for leave to proceed *in forma pauperis* together with an affidavit showing in detail the party's inability to pay fees and costs and that the party is entitled to redress. All complaints shall be accompanied by a properly completed Civil Cover Sheet (Form JS-44), Category Sheet, and Current Address Notice, all of which are available from the Clerk.

Except as otherwise required by law or ordered by the Court, the Clerk's Office shall not docket any filings, issue any process, or render any other service for which a fee is prescribed by statute or by the Judicial Conference of the United States unless the fee is prepaid or *in forma pauperis* status has been granted.

(b) In Forma Pauperis Applications

- (1) All Applications. All applications to proceed *in forma pauperis* shall be accompanied by a financial affidavit which shall disclose the applicant's income, assets, expenses, and liabilities, and shall be submitted in the forms approved by the Administrative Office of the U.S. Courts or provided by the Clerk's Office, or in a format substantially conforming to such forms and these Rules. The Court may require applicants who are not incarcerated to file an additional affidavit or produce additional information relevant to the applicant's financial ability to pay the full filing fee.
- (2) Applications by Incarcerated Persons. Incarcerated persons shall also submit, for the prior six-month period, and certified by the institution or entity, a copy of the trust fund account statement (or institution equivalent) showing the average monthly deposits to and the average monthly balance in the applicant's account. 28 U.S.C. § 1915, as amended, requires an inmate to pay the full filing fee when bringing a civil action. If insufficient funds exist in the inmate's account, the Court will assess an initial partial filing fee.
- (3) Litigation Expenses. The granting of an application to proceed *in forma pauperis* does not waive the applicant's responsibility to pay the expenses of litigation which are not waived by 28 U.S.C. §§ 1915 and 1925.

(c) Form of Complaint in Social Security Actions and Civil Rights Cases Pursuant to 42 U.S.C. § 1983, and Prisoner Petitions Pursuant to 28 U.S.C. §§ 2241, 2254 or 2255

- (1) In any action based upon social security claims, employment discrimination, and non-prisoner or prisoner civil rights, or any other civil matter, in which a plaintiff files *pro se* (which means without assistance of an attorney), the complaint should be filed on the forms provided in the Clerk's office or found on the Court's web site at www.prd.uscourts.gov. Leave to amend the complaint at a later date shall be freely granted in accordance with Federal Rule of Civil Procedure 15.
- (2) Habeas corpus petitions under 28 U.S.C. § 2241, 2254 and 2255, and cases filed under the Civil Rights Act, 42 U.S.C. § 1983, shall be filed on forms available in the Clerk's office upon the petitioner's request or found on the Court's web site at www.prd.uscourts.gov. Section 2255 cases are to be filed without charge.
- (3) A petition not filed on the appropriate form shall be subject to the issuance of a Notice of Defective Filing by the Clerk of Court. Failure to correct the filing by using the appropriate form within thirty (30) days from the Notice of Defective Filing will cause the case to be submitted for final disposition by the Court. The statute of limitations shall be tolled during said period.
- (4) An indigent *pro se* plaintiff or petitioner (28 U.S.C. §§ 2241 or 2254) may seek *in forma pauperis* status to file his or her action without payment of fees by filing the form affidavit available in the Clerk's office or found on the Court's web site at www.prd.uscourts.gov, along with the complaint/petition. The case will be given a civil docket number and the *in forma pauperis* application will be submitted to a Judge of the Court. If the Judge denies *in forma pauperis* status, the plaintiff/petitioner will by written order be given notice that the case will be dismissed without prejudice if the fee is not paid by the date specified in the order.